THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.21056 of 2006

ORDER:-

1. The matter is coming up for *admission*.

2. Sri Newton takes notice on behalf of respondent.

3. Heard Sri Aswarthanarayana, the Counsel representing the writ petitioners.

4. The Writ Petition is filed for a Writ of Mandamus or any other appropriate writ declaring that the action of the respondent is illegal, arbitrary, unjust and violative principles of natural justice and consequently direct the respondent to act in accordance with law and forbear from demolishing any part of the houses of the petitioners bearing D.Nos.8-1-85; 8-1-86A; 8-1-91-1; 8-1-87; 8-1-84; 8-1-86; 8-1-88; and 8-1-90 situated at Ward No.8, Theeru Street, Rayadurg, Anantapur District without acquiring the same under the provisions of the Land Acquisition Act and to pass such other suitable orders.

5. It is stated that the petitioners are absolute owners of the houses with door numbers furnished in the cause title at Ward No.8, Theeru Street, Rayadurg, Anantapur District and the petitioners had purchased the said properties under different registered sale deeds from different persons along with existing houses which were

constructed before independence. Several other factual details also had been narrated. It is stated that in front of their houses, there is 60 feet road to some extent and 30 feet road to some other extent. It is stated that the said road is stated to be in widening at present. It is further stated that the respondent – Municipality had issued notices under Sections 192, 193, 194 and 360 of A.P.Municipalities Act stating that the petitioners are encroachers of different extents and those encroachments are liable to be demolished. It is also specifically stated that in this context the petitioners would submit that they have given *no objection* to demolish the extents that were under encroachments and as such the respondent demolished those extents, but to the utter surprise of the petitioners, now the respondent is trying to demolish the houses of the petitioners to some more extent without issuing any notice which is mandatory under statute, the rules framed thereunder and the guidelines issued by this Court from time to time. Several other factual details also had been narrated in para 4 and the guidelines specified in W.P.No.21198/97 also had been referred to. Sri Newton, the learned standing Counsel states that the specific stand taken by the petitioners that they have given *no objection* to demolish the extents which were under encroachments and as

such the respondent demolished those extents may be recorded and the said stand taken by the petitioners is hereby recorded. The stand taken by the petitioners is that certain encroachments already had been demolished in the light of no objection submitted by the writ petitioners. However, it is stated by Sri Newton, the learned standing Counsel that though notices had been given, since the petitioners requested time no demolition as such was done even relating to the encroached portions as specified in the notices. The respective stands are hereby recorded and the specific no objection to demolish the extents under encroachments stated by the writ petitioners in the affidavit filed in support of the Writ Petition also is hereby recorded. It is needless to say that if further demolition activity to be proceeded with, the respondent is bound to follow due process of law in accordance with the provisions of the A.P.Municipalities Act and the provisions of the Land Acquisition Act. Accordingly, the Writ Petition is disposed of directing the respondent not to resort to any further demolition activity relating to the respective houses of the writ petitioners other than those portions relating to which already no objection had been submitted, without following the due process of law.

6. Accordingly, the Writ Petition is disposed of. No order as to costs.

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Justice P.S.Narayana

10th October, 2006

Note: Order copy by wire at party's costs

(B/o.smr)

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.21056 of 2006

Dt. 10th October, 2006

Between :-

G.Doraswamy and 7 others ..

Petitioners

And

The Municipal Commissioner,
Rayadurg Municipality,
Ananthapur District. ..
Respondent